



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/675,451	09/30/2003	Stephen L. Fichera	2024738-7031752001	5606
	7590	10/11/2005	(11.02)	
Bingham McCutchen LLP Suite 1800 Three Embarcadero Center San Francisco, CA 94111-4067			EXAMINER NOLAND, KENNETH W	
			ART UNIT 3653	PAPER NUMBER

DATE MAILED: 10/11/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

*He*

**Office Action Summary**

Application No.

10/675,451

Applicant(s)

FICHERA, STEPHEN L.

Examiner

Kenneth W. Noland

Art Unit

3653

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 08 September 2005.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) 1-11 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 12-20 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

Art Unit: 3653

1. Claims 1-11 are withdrawn from further consideration pursuant to 37 CFR

1.142(b) as being drawn to a nonelected \*species\*\*, there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on \*09-08-05.

2. \*\*The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 12-15,18-20 are\*\*\* rejected under 35 U.S.C. 103(a) as being unpatentable over \*Weaver. Weaver shows in figure 2 the apparatus to store a plurality of articles having a horizontal base 21 and a first support member 25 having a fixed angle and being of different angle than the angle of the other support member 19. Note also the opening (slot) 27 for the discharge of the articles. Note also the offset or "fanned" arrangement of the articles in figure 2.\*To provide that Weaver's apparatus would dispense any other article as slides would be obvious as a mere choice of utility to so dispense any other type of article ,as so desired, and therefore this utility expedience is not afforded any patentable weight. \*.In regard to claim 20, to provide that Weaver's apparatus is provided with a friction reducing means would be obvious as a mere choice of material design to so form the supports with a conventional friction reducing material, as Teflon, and , therefore, this material expedience is also not afforded any patentable weight.

4. Claims 16 and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over \*Weaver\*\* as applied to claims 12-15,18-20\*\*\* above, and further in view of

\*Goodman. To provide that Weaver's support members would be adjustable to vary its angle would be obvious not only as a mere choice of structural orientation or arrangement to so 'adjust' structural members, as so desired, but Goodman shows in figure 2 the support member 38 having its angle adjusted from the solid to the dotted line movement of the support member so as to provide for different or various angles for the support members. \*\*.

5. Swartz is cited showing in figure 3 another type of dispenser where the articles are offset.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kenneth W. Noland whose telephone number is (571) 272-6941. The examiner can normally be reached on Monday-Thursday ,each week.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Donald Walsh can be reached on (703) 306-4173. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Application/Control Number: 10/675,451

Page 4

Art Unit: 3653

\*\*\*

*kr D W Noland 10/6/2005*  
KENNETH W. NOLAND  
PRIMARY EXAMINER